

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
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CHAPTER 227

SENATE BILL 1030

AN ACT

AMENDING SECTIONS 38-842 AND 38-853.01, ARIZONA REVISED STATUTES; RELATING TO
THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-842, Arizona Revised Statutes, is amended to
3 read:

4 38-842. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accidental disability" means a physical or mental condition which
7 THAT the local board finds totally and permanently prevents an employee from
8 performing a reasonable range of duties within the employee's job
9 classification and THAT was incurred in the performance of the employee's
10 duty.

11 2. "Accumulated contributions" means, for each member, the sum of the
12 amount of the member's aggregate contributions made to the fund and the
13 amount, if any, attributable to the employee's contributions prior to the
14 member's effective date under another public retirement system, other than
15 the federal social security act, and transferred to the fund minus the
16 benefits paid to or on behalf of the member.

17 3. "Actuarial equivalent" means equality in present value of the
18 aggregate amounts expected to be received under two different forms of
19 payment, based on mortality and interest assumptions adopted by the fund
20 manager. The fund manager may from time to time change the mortality and
21 interest assumptions.

22 4. "Alternate payee" means the spouse or former spouse of a
23 participant as designated in a domestic relations order.

24 5. "Alternate payee's portion" means benefits that are payable to an
25 alternate payee pursuant to a plan approved domestic relations order.

26 6. "Average monthly benefit compensation" means the result obtained by
27 dividing the total compensation paid to an employee during a considered
28 period by the number of months, including fractional months, in which such
29 compensation was received. The considered period shall be the three
30 consecutive years within the last twenty completed years of credited service
31 which THAT yield the highest average. In the computation under this
32 paragraph a period of nonpaid or partially paid industrial leave shall be
33 considered based on the compensation the employee would have received in the
34 employee's job classification if the employee was not on industrial leave.

35 7. "Catastrophic disability" means a physical and not a psychological
36 condition that the local board determines prevents the employee from totally
37 and permanently engaging in any gainful employment and that results from a
38 physical injury incurred in the performance of the employee's duty.

39 8. "Certified peace officer" means a peace officer certified by the
40 Arizona peace officers standards and training board.

41 9. "Claimant" means any member or beneficiary who files an application
42 for benefits pursuant to this article.

43 10. "Compensation" means, for the purpose of computing retirement
44 benefits, base salary, overtime pay, shift differential pay and holiday pay
45 paid to an employee by the employer on a regular monthly, semimonthly or

1 biweekly payroll basis and longevity pay paid to an employee at least every
2 six months for which contributions are made to the system pursuant to section
3 38-843, subsection D. Compensation does not include, for the purpose of
4 computing retirement benefits, payment for unused sick leave, payment in lieu
5 of vacation, payment for compensatory time or payment for any fringe
6 benefits. For the purposes of this paragraph, "base salary" means the amount
7 of compensation each employee is regularly paid for personal services
8 rendered to an employer before the addition of any extra monies, including
9 overtime pay, shift differential pay, holiday pay, longevity pay, fringe
10 benefit pay and similar extra payments.

11 11. "Credited service" means the member's total period of service prior
12 to the member's effective date of participation, plus those compensated
13 periods of the member's service thereafter for which the member made
14 contributions to the fund.

15 12. "Cure period" means the ninety-day period in which a participant or
16 alternate payee may submit an amended domestic relations order and request a
17 determination, calculated from the time the system issues a determination
18 finding that a previously submitted domestic relations order did not qualify
19 as a plan approved domestic relations order.

20 13. "Depository" means a bank in which all monies of the system are
21 deposited and held and from which all expenditures for benefits, expenses and
22 investments are disbursed.

23 14. "Determination" means a written document that indicates to a
24 participant and alternate payee whether a domestic relations order qualifies
25 as a plan approved domestic relations order.

26 15. "Determination period" means the ninety-day period in which the
27 system must review a domestic relations order that is submitted by a
28 participant or alternate payee to determine whether the domestic relations
29 order qualifies as a plan approved domestic relations order, calculated from
30 the time the system mails a notice of receipt to the participant and
31 alternate payee.

32 16. "Domestic relations order" means an order of a court of this state
33 that is made pursuant to the domestic relations laws of this state and that
34 creates or recognizes the existence of an alternate payee's right to, or
35 assigns to an alternate payee the right to, receive a portion of the benefits
36 payable to a participant.

37 17. "Effective date of participation" means July 1, 1968, except with
38 respect to employers and their covered employees whose contributions to the
39 fund commence thereafter, the effective date of their participation in the
40 system is as specified in the applicable joinder agreement.

41 18. "Effective date of vesting" means the date a member's rights to
42 benefits vest pursuant to section 38-844.01.

43 19. "Eligible child" means the unmarried child of a deceased member who
44 is under the age of eighteen or a full-time student who is under the age of
45 twenty-three or under a disability which THAT began before the child attained

1 the age of twenty-three and who remains a dependent of the surviving spouse
2 or guardian.

3 20. "Eligible groups" means only the following who are regularly
4 assigned to hazardous duty:

5 (a) Municipal police officers who are certified peace officers.

6 (b) Municipal fire fighters.

7 (c) Paid full-time fire fighters employed directly by a fire district
8 organized pursuant to section 48-803 or 48-804 with three or more full-time
9 fire fighters, but not including fire fighters employed by a fire district
10 pursuant to a contract with a corporation.

11 (d) State highway patrol officers who are certified peace officers.

12 (e) State fire fighters.

13 (f) County sheriffs and deputies who are certified peace officers.

14 (g) Fish and Game AND FISH wardens who are certified peace officers.

15 (h) Police officers who are certified peace officers and fire fighters
16 of a nonprofit corporation operating a public airport pursuant to sections
17 28-8423 and 28-8424. A police officer shall be designated pursuant to
18 section 28-8426 to aid and supplement state and local law enforcement
19 agencies and a fire fighter's sole duty shall be to perform fire fighting
20 services, including services required by federal regulations.

21 (i) Police officers who are certified peace officers and who are
22 appointed by the Arizona board of regents.

23 (j) Police officers who are certified peace officers and who are
24 appointed by a community college district governing board.

25 (k) State attorney general investigators who are certified peace
26 officers.

27 (l) County attorney investigators who are certified peace officers.

28 (m) Police officers who are certified peace officers and who are
29 employed by an Indian reservation police agency.

30 (n) Fire fighters who are employed by an Indian reservation fire
31 fighting agency.

32 (o) Police officers who are certified peace officers and who are
33 appointed by the department of administration.

34 (p) Department of liquor licenses and control investigators who are
35 certified peace officers.

36 (q) Arizona department of agriculture officers who are certified peace
37 officers.

38 (r) Arizona state parks board rangers and managers who are certified
39 peace officers.

40 (s) County park rangers who are certified peace officers.

41 21. "Employee" means any person who is employed by a participating
42 employer and who is a member of an eligible group but does not include any
43 persons compensated on a contractual or fee basis. If an eligible group
44 requires certified peace officer status and at the option of the local board,

1 employee may include a person who is training to become a certified peace
2 officer.

3 22. "Employers" means:

4 (a) Cities contributing to the fire fighters' relief and pension fund
5 as provided in sections 9-951 through 9-971 or statutes amended thereby and
6 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid
7 fire fighters.

8 (b) Cities contributing under the state police pension laws as
9 provided in sections 9-911 through 9-934 or statutes amended thereby and
10 antecedent thereto, as of June 30, 1968 on behalf of their municipal
11 policemen.

12 (c) The state highway patrol covered under the state highway patrol
13 retirement system.

14 (d) The state, or any political subdivision ~~thereof~~ OF THIS STATE,
15 including ~~but not limited to~~ towns, cities, fire districts, counties and
16 nonprofit corporations operating public airports pursuant to sections 28-8423
17 and 28-8424, ~~which~~ THAT has elected to participate in the system on behalf of
18 an eligible group of public safety personnel pursuant to a joinder agreement
19 entered into after July 1, 1968.

20 (e) Indian tribes ~~which~~ THAT have elected to participate in the system
21 on behalf of an eligible group of public safety personnel pursuant to a
22 joinder agreement entered into after July 1, 1968.

23 23. "Fund" means the public safety personnel retirement fund, which is
24 the fund established to receive and invest contributions accumulated under
25 the system and from which benefits are paid.

26 24. "Fund manager" means the fund manager of the system, who are the
27 persons appointed to invest and operate the fund.

28 25. "Local board" means the retirement board of the employer, who are
29 the persons appointed to administer the system as it applies to their members
30 in the system.

31 26. "Member" means any employee who meets all of the following
32 qualifications:

33 (a) Who is either a full-time paid municipal police officer, a
34 full-time paid fire fighter, a law enforcement officer who is employed by the
35 THIS state including the director thereof, a state fire fighter who is
36 primarily assigned to fire fighting duties, a fire fighter or police officer
37 of a nonprofit corporation operating a public airport pursuant to sections
38 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement
39 merit system council, a state attorney general investigator who is a
40 certified peace officer, a county attorney investigator who is a certified
41 peace officer, a police officer who is appointed by the department of
42 administration and who is a certified peace officer, a department of liquor
43 licenses and control investigator who is a certified peace officer, an
44 Arizona department of agriculture officer who is a certified peace officer,
45 an Arizona state parks board ranger or manager who is a certified peace

1 officer, a county park ranger who is a certified peace officer, a person who
2 is a certified peace officer and who is employed by an Indian reservation
3 police agency, a fire fighter who is employed by an Indian reservation fire
4 fighting agency or an employee included in a group designated as eligible
5 employees under a joinder agreement entered into by their employer after July
6 1, 1968 and who is or was regularly assigned to hazardous duty.

7 (b) Who, on or after the employee's effective date of participation,
8 is receiving compensation for personal services rendered to an employer or
9 would be receiving compensation except for an authorized leave of absence.

10 (c) Whose employment with an employer commenced prior to attainment of
11 age fifty.

12 (d) Whose customary employment is at least forty hours per week and
13 for more than six months in a calendar year.

14 (e) Who has not attained age sixty-five prior to the employee's
15 effective date of participation or who was over age sixty-five with
16 twenty-five years or more of service prior to the employee's effective date
17 of participation.

18 27. "Normal retirement date" means the first day of the calendar month
19 immediately following an employee's completion of twenty years of service or
20 the employee's sixty-second birthday and the employee's completion of fifteen
21 years of service.

22 28. "Notice of receipt" means a written document that is issued by the
23 system to a participant and alternate payee and that states that the system
24 has received a domestic relations order and a request for a determination
25 that the domestic relations order is a plan approved domestic relations
26 order.

27 29. "Ordinary disability" means a physical condition ~~which~~ THAT the
28 local board determines will prevent an employee totally and permanently from
29 performing a reasonable range of duties within the employee's department or a
30 mental condition ~~which~~ THAT the local board determines will prevent an
31 employee totally and permanently from engaging in any substantial gainful
32 activity.

33 30. "Participant" means a member who is subject to a domestic relations
34 order.

35 31. "Participant's portion" means benefits that are payable to a
36 participant pursuant to a plan approved domestic relations order.

37 32. "Pension" means a series of monthly amounts ~~which~~ THAT are payable
38 to a person who is entitled to receive benefits under the plan.

39 33. "Personal representative" means the personal representative of a
40 deceased alternate payee.

41 34. "Plan approved domestic relations order" means a domestic relations
42 order that the system approves as meeting all the requirements for a plan
43 approved domestic relations order as otherwise prescribed in this article.

44 35. "Regularly assigned to hazardous duty" means regularly assigned to
45 duties of the type normally expected of municipal police officers, municipal

1 or state fire fighters, eligible fire district fire fighters, state highway
2 patrol officers, county sheriffs and deputies, fish and game wardens, fire
3 fighters and police officers of a nonprofit corporation operating a public
4 airport pursuant to sections 28-8423 and 28-8424, police officers who are
5 appointed by the Arizona board of regents or a community college district
6 governing board, state attorney general investigators who are certified peace
7 officers, county attorney investigators who are certified peace officers,
8 police officers who are appointed by the department of administration and who
9 are certified peace officers, department of liquor licenses and control
10 investigators who are certified peace officers, Arizona department of
11 agriculture officers who are certified peace officers, Arizona state parks
12 board rangers and managers who are certified peace officers, county park
13 rangers who are certified peace officers, police officers who are certified
14 peace officers and WHO are employed by an Indian reservation police agency or
15 fire fighters who are employed by an Indian reservation fire fighting
16 agency. Those individuals who are assigned solely to support duties such as
17 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance
18 personnel, mechanics and dispatchers are not assigned to hazardous duty
19 regardless of their position classification title. Since the normal duties
20 of ~~municipal police officers, municipal or state fire fighters, eligible fire~~
21 ~~district fire fighters, state highway patrol officers, county sheriffs and~~
22 ~~deputies, fish and game wardens, fire fighters and police officers of a~~
23 ~~nonprofit corporation operating a public airport pursuant to sections 28-8423~~
24 ~~and 28-8424, police officers who are appointed by the Arizona board of~~
25 ~~regents or a community college district governing board, state attorney~~
26 ~~general investigators who are certified peace officers, county attorney~~
27 ~~investigators who are certified peace officers, police officers who are~~
28 ~~appointed by the department of administration and who are certified peace~~
29 ~~officers, department of liquor licenses and control investigators who are~~
30 ~~certified peace officers, Arizona department of agriculture officers who are~~
31 ~~certified peace officers, Arizona state parks board rangers and managers who~~
32 ~~are certified peace officers, county park rangers who are certified peace~~
33 ~~officers, police officers who are certified peace officers and are employed~~
34 ~~by an Indian reservation police agency and fire fighters who are employed by~~
35 ~~an Indian reservation fire fighting agency~~ THOSE JOBS DESCRIBED IN THIS
36 PARAGRAPH are constantly changing, questions as to whether a person is or was
37 previously regularly assigned to hazardous duty shall be resolved by the
38 local board on a case-by-case basis. Resolutions by local boards are subject
39 to rehearing and appeal.

40 36. "Retirement" means termination of employment after a member has
41 fulfilled all requirements for a pension. Retirement shall be considered as
42 commencing on the first day of the month immediately following a member's
43 last day of employment or authorized leave of absence, if later.

44 37. "Segregated funds" means the amount of benefits that would
45 currently be payable to an alternate payee pursuant to a domestic relations

1 order under review by the system, or a domestic relations order submitted to
2 the system that failed to qualify as a plan approved domestic relations
3 order, if the domestic relations order were determined to be a plan approved
4 domestic relations order.

5 38. "Service" means the last period of continuous employment of an
6 employee by the employers prior to the employee's retirement or the
7 employee's sixty-fifth birthday, whichever first occurs, except that if such
8 period includes employment during which the employee would not have qualified
9 as a member had the system then been effective, such as employment as a
10 volunteer fire fighter, then only twenty-five per cent of such noncovered
11 employment shall be considered as service. Any absence ~~which~~ THAT is
12 authorized by an employer shall not be considered as interrupting continuity
13 of employment if the employee returns within the period of authorized
14 absence. Transfers between employers also shall not be considered as
15 interrupting continuity of employment. Any period during which a member is
16 receiving sick leave payments or a temporary disability pension shall be
17 considered as service. NOTWITHSTANDING ANY OTHER PROVISION OF THIS
18 PARAGRAPH, any period during which a person was employed as a full-time paid
19 fire fighter ~~by a fire district pursuant to a contract with a corporation~~
20 ~~within that fire district~~ FOR A CORPORATION THAT CONTRACTED WITH AN EMPLOYER
21 TO PROVIDE FIREFIGHTING SERVICES ON BEHALF OF THE EMPLOYER shall be
22 considered as service if ~~it is part of the person's last period of continuous~~
23 ~~employment with that corporation in that fire district and the fire district~~
24 EMPLOYER has elected AT ITS OPTION to treat PART OR ALL OF the period THE
25 FIREFIGHTER WORKED FOR THE COMPANY as service in its applicable joinder
26 agreement. Any reference in this system to the number of years of service of
27 an employee shall be deemed to include fractional portions of a year.

28 39. "State" means the state of Arizona, including any department,
29 office, board, commission, agency or other instrumentality of the state.

30 40. "System" means the public safety personnel retirement system
31 established by this article.

32 41. "Temporary disability" means a physical or mental condition ~~which~~
33 THAT the local board finds totally and temporarily prevents an employee from
34 performing a reasonable range of duties within the employee's department and
35 ~~which~~ THAT was incurred in the performance of the employee's duty.

36 Sec. 2. Section 38-853.01, Arizona Revised Statutes, is amended to
37 read:

38 38-853.01. Redemption of prior service

39 A. Each present active member of the system ~~who had previous~~ MAY ELECT
40 TO REDEEM ANY PART OF THE FOLLOWING PRIOR SERVICE OR EMPLOYMENT BY PAYING
41 INTO THE SYSTEM ANY AMOUNTS REQUIRED UNDER SUBSECTION B IF THE PRIOR SERVICE
42 OR EMPLOYMENT IS NOT ON ACCOUNT WITH ANY OTHER RETIREMENT SYSTEM:

43 1. PRIOR service in this state as an employee with an employer now
44 covered by the system or ~~had previous~~ PRIOR service with an agency of the
45 United States government, a state of the United States or a political

1 subdivision of a state of the United States as a full-time paid firefighter
2 or full-time paid certified peace officer ~~may elect to redeem any part of the~~
3 ~~prior service by paying into the system any amounts required under subsection~~
4 ~~B if the prior service is not on account with any other retirement system.~~

5 2. SUBJECT TO ANY LIMITATIONS PRESCRIBED BY FEDERAL LAW, PRIOR
6 EMPLOYMENT AS AN EMPLOYEE WITH A CORPORATION THAT CONTRACTED WITH AN EMPLOYER
7 NOW COVERED BY THE SYSTEM TO PROVIDE FIREFIGHTING SERVICES ON BEHALF OF THAT
8 EMPLOYER AS A FULL-TIME PAID FIREFIGHTER.

9 B. Any present active member who elects to redeem any part of the
10 prior service OR EMPLOYMENT for which the employee is deemed eligible by the
11 fund manager under this section shall pay into the system the amounts
12 previously withdrawn by the member, if any, as a refund of the member's
13 accumulated contributions plus accumulated interest as determined by the fund
14 manager and the additional amount, if any, computed by the system's actuary
15 which is necessary to equal the increase in the actuarial present value of
16 projected benefits resulting from the redemption calculated using the
17 actuarial methods and assumptions prescribed by the system's actuary.

18 Sec. 3. Amendment or execution of joinder agreement

19 If an employer in the public safety personnel retirement system elects
20 to include its fire fighters who have prior service working as a fire fighter
21 for a corporation that contracted with an employer to provide fire fighting
22 services as part of its eligible group, the employer shall amend the joinder
23 agreement with the fund manager of the public safety personnel retirement
24 system or execute a joinder agreement if the employer entered the system on
25 July 1, 1968.

APPROVED BY THE GOVERNOR MAY 20, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2008.